Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Telecommunications Relay Services and	)	
Speech-to-Speech Services for	)	CG Docket No. 03-123
Individuals with Hearing and Speech Disabilities	)	
	)	
Access to Emergency Services	)	

COMMENTS OF THE NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE

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On the Comments:

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Date: February 22, 2006

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I. INTRODUCTION

In response to the notice published in the Federal Register, the New Jersey Division of the Ratepayer Advocate ("Ratepayer Advocate") hereby submits its initial comments regarding the issues raised in the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC" or "Commission").[1] In the *NPRM*, the Commission addresses the issue of access to emergency services for Internet-based forms of Telecommunications Relay Service ("TRS"), specifically Video Relay Service ("VRS") and Internet Protocol ("IP") Relay. TRS enables individuals with hearing or speech disabilities to communicate through the telephone system

[1]/ *Federal Register*, Vol. 71, No. 21, February 1, 2006. Reply comments are due March 8, 2006. *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Access to Emergency Services,* CG Docket No. 03-123 (rel. November 30, 2005) ("NPRM").

with a person without such a disability.[2] In this proceeding the Commission seeks comments about access to 911 emergency services by callers using VRS and IP Relay services.

A. INTEREST OF THE RATEPAYER ADVOCATE IN THE INSTANT PROCEEDING.

The Ratepayer Advocate is an independent New Jersey State agency that represents and protects the interests of all utility consumers, including residential, business, commercial, and industrial entities. The Ratepayer Advocate participates actively in relevant Federal and state administrative and judicial proceedings. The access by all consumers to emergency services is of critical importance to the Ratepayer Advocate. As the use of Internet-based relay services expands, hearing and speech-impaired consumers' ability to reach the 911 system with this new technology becomes more critical.[3]

B. VRS, IP RELAY, AND 911/E911 SERVICES

The Commission first recognized VRS as a form of TRS in March 2000.[4] All VRS calls are eligible for compensation from the Interstate TRS Fund. The Commission indicates that although it has not made VRS a mandatory service, it has encouraged its development.[5] The FCC further indicates that the "popularity of VRS is reflected by how rapidly it has grown." In January 2002,

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[2]/ *NPRM*, fn 1, citing 47 U.S.C. § 225(a)(3); 47 U.S.C. § 64.601(14). Title IV of the Americans with Disabilities Act of 1990 ("ADA") added Section 225 to the Communications Act of 1934 which requires the Commission to ensure that TRS is available "to the extent possible and in the most efficient manner, to persons with hearing and speech disabilities." *NPRM*, at para. 3, cite omitted.

[3]/ VRS relies on a broadband Internet connection between the VRS user and the communications assistant ("CA"). The connection enables the user and the CA to communicate in American Sign Language ("ASL"), using a video link. The CA then places an outbound telephone call to a hearing person. The use of ASL allows the conversation to occur more quickly than with the use of TTY (text telephone). *NPRM*, at para. 5.

[4]/ *NPRM*, at para. 5, cite omitted.

[5]/ *Id.*. In a separate proceeding, the Commission is considering whether VRS should be made a mandatory service. *Id.*, citing *2004 TRS Report & Order*, 19 FCC Rcd at 12567-12568, paras. 243-245.

which was the first month that VRS was generally offered, there were 7,215 minutes of use. As of July 2005, there were over 2.2 million minutes of VRS use.[6]

In April 2002, the Commission first recognized IP Relay as a way to access TRS. Users connect to the TRS facility with a computer and the Internet in order to relay text-based calls.[7] This mode of communication has gained popularity because users can use any computer (or similar device) that is connected to the Internet rather than with a dedicated TTY.[8]

The Commission has previously addressed consumers' access to 911 emergency services in light of new technologies. For example, "wireless carriers have developed various techniques to provide ANI [Automatic Numbering Information] and ALI [Automatic Location Information] to the PSAPs [public safety answering point] that involve enhancements to the existing wireless E911 network."[9] This proceeding represents another component of the Commission's ongoing efforts to ensure that, as technological advancements are introduced, the nation's emergency access goals continue to be achieved.

As described by the Commission, the TRS regulations, adopted in 1991 pursuant to Congress's directive, are intended "to ensure that TRS users have the ability to access the telephone system in a manner that approximates, as closely as possible, the experience of a voice telephone user consistent with the functional equivalency mandate."[10] Although, in some aspects, Internet-

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[6]/ *NPRM*, at footnote 18.

[7]/ *Id.*, at para. 6.

[8]/ *Id.*

[9]/ *Id.*, at para. 8, cites omitted.

[10]/ *Id.*, at para. 9, cites omitted.

based relay services improve day-to-day communications, they may jeopardize users' access to emergency services because the calls are not being carried over the public switched telephone network.

The Commission first granted a waiver of emergency call handling requirements for VRS providers in 2001 and twice extended that deadline.[11] Most recently, on December 28th, 2005, the deadline was extended for a third time until January 1st, 2007 or until the Commission issues an order addressing the emergency call handling requirements for VRS providers. The waiver was extended in light of "continued technological challenges to determining geographic location of TRS calls originating via the Internet, including VRS calls" and the issuance of the instant *NPRM*.[12] Because VRS users access the VRS using the Internet, providers do not receive the ANI of the calling party and, therefore, cannot relay the ANI to the PSAP.[13]

The FCC has also provided a waiver, and extended that waiver until January 1, 2008, for the handling of emergency calls by IP Relay providers, which, similarly, do not receive the ANI of the calling party.[14]

However, in the instance of VoIP, another new technology, the Commission has required VoIP providers to provide E911 capabilities to their customers, and, furthermore, to provide specific information to subscribers (such as labels warning subscribers if E911 service is limited or

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[11]/ *Id.*, at para. 13.

[12]/ *Federal Register*, Vol. 70, No. 248, December 28, 2005.

[13]/ *NPRM*, at para. 13, cite omitted.

[14]/ *Id.*, at para. 14.

unavailable) as well as to gather pertinent information from subscribers.[15] Until such time as E911 can be seamlessly provided to consumers of Internet-based relay services, consumer protection is necessary.

II. ISSUES

Because PSAPs are required to be able to receive direct TTY calls,[16] and, because TTY calls contain ANI, PSAPs can determine the TTY user's location. This geographic information is absent in the instance of VRS and IP Relay services.

A registration process would ensure that users are informed fully about the implications of the use of Internet-based relay services for their ability to obtain timely access to emergency services.

The major issue under investigation in this proceeding concerns how VRS and IP Relay providers of TRS can determine the appropriate PSAP to contact when Internet-based providers receive an emergency call.[17] Among other things, the Commission seeks comment on whether VRS and IP Relay providers should be required to establish a registration process, similar to that adopted by the Commission in its *VoIP E911 Order*.[18] Until such time as a technical solution evolves, the Ratepayer Advocate supports the use of such a registration process so that, in the event of an emergency, the users' locations are known through the "Registered Location" process. Furthermore, in response to the Commission's question, the Ratepayer Advocate urges the Commission to establish a registration process for both VRS and IP Relay users. The Commission also seeks

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[15]/ *Id.*, at paras. 15-16.

[16]/ *Id.*, at para. 18.

[17]/ *Id.*, at para. 17.

[18]/ *Id.,* at para. 19.

comment on whether alternative solutions exist such as VRS and IP Relay providers obtaining "Registered Location" information by linking the serial number of the consumer's equipment to their "Registered Location" using the Media Access Control ("MAC") address.[19] The Ratepayer Advocate welcomes the opportunity to review alternative proposals that may be provided by users and providers in this proceeding.

The Ratepayer Advocate concurs, however, with the Commission's reasoning that a registration process is not unduly burdensome for TRS users. As a result of the *VoIP E911 Order*, voice users have to register their locations in order to obtain telephone service, and therefore, a registration process does not affect hearing and speech impaired users uniquely. At such time as technological solutions emerge, TRS users (and all VoIP subscribers, for that matter) will benefit from an arrangement that is more functionally equivalent to wireline voice emergency services, but until such time, it is critically important that all TRS users, regardless of the technology they choose to use, be able to access the nation's comprehensive 911 and E911 system.

The Commission should ensure the privacy and security of relay calls as well as the confidentiality of subscriber information.

The Commission also raises important issues about privacy and the protection of confidential consumer information that may be conveyed through the Internet.[20] As the National Association of State Utility Consumer Advocates ("NASUCA") stated in its comments in the *Consumer Protection in a Broadband Era* proceeding: "Consumers have come to understand and expect a general level of privacy protection for their personal information that should not depend on changes in format or

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[19]/ *Id.,* at para. 19.

[20]/ *Id.*, at para. 20.

underlying technology of the service."[21] Additionally, as stated by the Ratepayer Advocate in the same proceeding, the Commission should make the protection of consumers' personal information a priority. Reports of mismanagement of confidential personal information and identity theft are increasing. The Gartner Group reports that seven million Americans were the victims of identity theft in the twelve months ending in June 2003.[22] Such protections should not be limited to users of wireline telecommunications and the Commission should require VRS and IP Relay providers to adopt appropriate safeguards.

TRS providers should offer consumers a method for updating location information.

The Commission raises questions about the way in which, and frequency with which, users should update information about their location, particularly with IP Relay equipment, which tends to be more mobile than the video-based VRS equipment.[23] The Ratepayer Advocate recognizes that requiring users to affirmatively acknowledge whether they are at their Registered Location each time they initiate a call could be burdensome, but, in the instance of the more mobile IP Relay appears justified. The benefit of updating the location in the event of an emergency would seem to offset the burden of affirming one's location. Because VRS equipment does not typically move, such a requirement does not seem necessary for VRS users. In any event, the method for updating one's location should be made as effortless as possible and should not impose any cost on the user.

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[21]/ *In the Matter of Consumer Protection in the Broadband Era*, FCC WC Docket No. 05-271, Comments of the National Association of State Utility Consumer Advocates, January 17, 2006, at 26.

[22]/ *See*, *In the Matter of Consumer Protection in the Broadband Era*, FCC WC Docket No. 05-271, Comments of the New Jersey Division of the Ratepayer Advocate, January 17, 2006, at 9, citing "Gartner Says Identity Theft Is Up Nearly 80 Percent," Press Release, Garnet, Inc., July 21, 2003.

[23]/ *NPRM*, at para. 21.

TRS providers should clearly advise customers about the limitations on the use of E911 with VRS and IP Relay services and the Commission should apply some of its findings in the VoIP E911 Order to VRS and IP Relay services.

Adequate and comprehensive information is essential in order to ensure that consumers comprehend the technical limitations of VRS and IP Relay services. Therefore the Ratepayer Advocate supports the use of the *VoIP E911 Order* as a model for VRS and IP Relay services. The Commission should require that TRS providers specifically advise new and existing customers of the technology with respect to access to E911 services and should obtain affirmative acknowledgement from every subscriber.[24]

Absent compelling information from the industry to the contrary, the Ratepayer Advocate supports the adoption of a prohibition on the use of administrative numbers by VRS and IP Relay providers that currently exists for VoIP providers. As noted in the *NPRM*, when adopting the prohibition for VoIP providers in the *VoIP E911 Order* "the Commission cited evidence in the record that use of a 10-digit number for routing E911 calls to a PSAP that is interconnected to a Wireline E911 Network is not in the public interest in the context of interconnected VoIP services."[25]

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[24]/ *See*, *NPRM*, at para. 22.

[25]/ *NPRM*, at para. 23, citing *VoIP E911 Order*, at para. 42 and fn. 142.

The Commission proposes that VRS and IP Relay services could be structured to always include a VoIP call, and, as such, allow the registration requirement for VoIP calls to adequately cover VRS and IP Relay calls at the same time.[26] However, as the Commission recognizes, IP Relay "does not necessarily depend on broadband connections" because it is text-based.[27] Absent a solution that adequately addresses this short coming, the Commission should err on the side of duplicative registration requirements.

The Commission should ensure that VRS and IP Relay users have equivalent access to emergency services as voice subscribers including prompt identification of emergency calls by VRS and IP Relay providers and priority access to a CA.

The Ratepayer Advocate is troubled by the Commission's observation that a caller seeking emergency services may be made to wait for an available CA "during busy periods" and that the current 120 second answer requirement for VRS calls is "likely too long a wait for a caller seeking emergency services."[28] It is unacceptable for a caller seeking emergency services to be put in a queue for two minutes before even connecting to a CA. The Commission should direct VRS and IP Relay providers to implement a way to identify incoming calls as emergency calls so that they are not held up in a queue during busy periods. Such modification should be a prerequisite for TRS compensation and should be a priority for the Commission.

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[26]/ *Id.*, at para. 24.

[27]/ *Id.*

[28]/ *Id.*, at para. 26.

VRS and IP Relay providers should work to resolve the technological challenges to providing access to emergency service as expeditiously as possible.

The Commission seeks comment regarding "how much time it may reasonably take for providers to implement the solutions proposed in this *Notice*." As noted above, the waiver of emergency call handling requirements for VRS and IP Relay services has been extended multiple times. The Ratepayer Advocate urges the Commission to resist calls for further delays. Put simply, the issues addressed in this *NPRM* are issues of life and death and must be addressed as quickly as possible.

III. CONCLUSION

The Ratepayer Advocate commends the Commission for seeking ways in which to ensure that emergency calls made by VRS and IP Relay users promptly reach the appropriate emergency service provider.[29] VRS clearly represents an improvement to TTY because, among other things, it increases communication speed, allows the use of facial expression and body language in communication, and permits a conversational flow that TTY cannot. However, there is one significant drawback to VRS (and Internet Relay), which is the fact that, unlike TTY calls, a user's geographic information is not automatically conveyed to the emergency 911 system. For this reason, the Ratepayer Advocate supports fully the Commission's efforts to encourage timely industry progress toward enabling seamless access to 911 emergency services by VRS and IP Relay users. During the transition however, before such a solution has emerged, the Ratepayer Advocate supports efforts to ensure that the industry educate consumers adequately about the limitations of the Internet-based forms of communication and the use of the requirements established for VoIP providers as a

[29]/ *NPRM*, at para. 18.

model for implementing interim solutions. To the extent that these initial comments do not address every issue for which the Commission is seeking comment, the Ratepayer Advocate intends to review the comments of consumers and providers and submit more detailed reply comments as appropriate.

Respectfully submitted,

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